

Annual Report

2012 Fiscal Year

July 1, 2011 through June 30, 2012



Rhode Island Commission for Human Rights

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STATE OF RHODE ISLAND
COMMISSION FOR HUMAN RIGHTS

November 30, 2012

Chair
Dr. John B. Susa

Commissioners

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Camille Vella-Wilkinson
Alton W. Wiley, Jr., Esq.
Alberto Aponte Carbone, Esq.
Rochelle Bates Lee
Nancy Kulman Ventrone

Chair Emeritus
Marguerite A. Beaubien

Commissioner Emeritus
Joaquin F. Gomes

Executive Director
Michael D. Évora, Esq.

The Honorable Lincoln D. Chafee
Office of the Governor
State House, Room 222
Providence, RI 02903

Dear Governor Chafee:

It is with sincere pleasure that I submit to you the latest Annual Report of the Rhode Island Commission for Human Rights (Commission).

The Report conveys essential information on the program activities of the Commission during the 2012 fiscal year, including charge intake, charge investigation, administrative hearings and final case dispositions. In addition, the Report offers a summary of agency Decisions and Orders, an update on education/outreach efforts, a summary of enforcement/court actions undertaken by Commission counsel, and highlights of caseload accomplishments occurring during what has been an eventful year.

Through the diligent efforts of Commissioners and Commission staff, and with the assistance of student interns, the agency realized significant achievements during FY 2012. For the fourteenth consecutive year, the number of cases processed by the Commission exceeded the number of new cases taken in, thereby decreasing the number of open cases carried forward into a new fiscal year. The Commission also closed the fiscal year with no cases in its inventory considered "aged" under federal guidelines, a milestone in the agency's history.

Consistent with the agency's statutory mandate to implement a comprehensive educational program, Commission staff members conducted two dozen education/outreach sessions in the community, reaching over 650 employers, housing providers and individuals and educating them about their rights and responsibilities under the state's antidiscrimination laws.

I hope that you find the Report informative and helpful as you (and the General Assembly) contemplate the resources to be devoted to this vital agency in the future.

Sincerely,

John B. Susa, Ph.D.
Chairperson

“The practice or policy of discrimination against individuals ... is a matter of state concern. Such discrimination foments domestic strife and unrest, threatens the rights and privileges of the inhabitants of the state, and undermines the foundations of a free democratic state. The denial of equal employment opportunities because of such discrimination and the consequent failure to utilize the productive capacities of individuals to their fullest extent deprive large segments of the population of the state of earnings necessary to maintain decent standards of living, necessitates their resort to public relief, and intensifies group conflicts, thereby resulting in grave injury to the public safety, health, and welfare.

It is hereby declared to be the public policy of this state to foster the employment of all individuals in this state in accordance with their fullest capacities ... and to safeguard their right to obtain and hold employment without such discrimination.

The right of all individuals in this state to equal employment opportunities ... is hereby recognized as, and declared to be a civil right.”

From R.I. Public Laws 1949, ch. 2181, by which
the Commission for Human Rights was created and empowered

FY 2012 HIGHLIGHTS

INTAKE

The Commission took in 314 new charges of discrimination. Of the new charges, 81.5% were in the area of employment, 12.7% in housing and 4.8% in public accommodations. Charges of disability discrimination unrelated to employment, housing or public accommodations accounted for one percent of intake.

Charges of disability discrimination predominated, with 107 new cases taken in, representing about 34% of intake. Charges of race discrimination followed, with 55 new cases, representing 17.5% of intake. Charges of sex discrimination (including pregnancy discrimination and sexual harassment) and age discrimination followed, with 51 and 50 new cases respectively, each representing approximately 16% of intake.

INVESTIGATIONS

For the fourteenth consecutive year, the Commission processed more cases than it took in (411 vs. 314).

- Probable Cause was found in approximately 8.3% of cases, representing a decrease from FY 2011 (10.7%);
- No Probable Cause was found in nearly 40% of cases, representing a decrease from FY 2011 (42.7%); a substantial number of these cases resulted from a complainant's failure to pursue his/her charge;
- Nearly 23% of cases settled prior to a determination of Probable Cause or No Probable Cause, representing a significant increase from FY 2011 (16%).

ADMINISTRATIVE HEARINGS

The Commission held administrative hearings in six cases in the fiscal year. In the Decision and Orders issued within the year, the Commission found that: 1) a local mattress warehouse company and several employees discriminated against a female Sales Representative by either subjecting her to sexual harassment or failing to take appropriate action to stop the harassment when notified of it; and 2) a Providence condominium owner subjected fellow condominium owners and their guests to acts of intimidation, harassment and coercion because of their ancestral origin.

THE COMMISSION AT THE COURTS

The Commission's Civil Prosecutor obtained relief in four receivership/bankruptcy cases and successfully settled a post-probable cause housing discrimination case which had been filed in Superior Court and removed by the respondents to federal district court.

CASELOAD ACCOMPLISHMENTS

- The Commission processed slightly fewer cases in FY 12 than in FY 11 (411 vs. 422).
- The Commission has realized a significant decrease in the time taken to process cases. While the average age of a case at closure in FY 2003 was over three years, the average age of cases closed in FY 2012 was 400 days.
- The Commission closed FY 12 with no cases considered "aged" by federal Equal Employment Opportunity Commission guidelines in its inventory. (By way of comparison, the Commission ended FY 2002 with approximately 160 "aged" cases in its inventory.)

OUTREACH

Commission staff members conducted 24 outreach/education sessions in the community, reaching nearly 650 employers, housing providers and individuals and educating them about their rights and responsibilities pursuant to state and federal antidiscrimination laws.

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Commissioners and Staff Members

Commissioners

John B. Susa, Ph.D., Chair
Alberto Aponte Cardona, Esq.
Rochelle Bates Lee
Camille Vella-Wilkinson
Nancy Kolman Ventrone
Alton W. Wiley, Jr., Esq.
Iraida Diaz Williams

Staff

Michael D. Évora, Esq., Executive Director
Cynthia M. Hiatt, Esq., Legal Counsel
Francis A. Gaschen, Esq., Legal Counsel
Angie V. Lovegrove, HUD Project Director
Marlene Colón Toribio, EEOC Project Director
Glenn Cardozo, Sr. Compliance Officer
Tina M. Christy, Sr. Compliance Officer
Allison G. Cote, Sr. Compliance Officer
VACANT, Sr. Compliance Officer*
Stephen W. Strycharz, Investigator
Jason Flanders, Investigator
Dina I. Quezada, Investigator**
Betsy Ross, Chief Clerk
Zaida Rivera, Administrative Aide
Lynn Soccio, Administrative Aide

*This position was vacated in August 2009 and the Commission has not received authorization to fill it.

**Ms. Quezada was hired as an Investigator in September 2012.

Overview

The Rhode Island Commission for Human Rights (Commission) was created by the Rhode Island General Assembly in 1949 and is one of the oldest state anti-discrimination agencies in the country. In establishing the Commission, the General Assembly declared that “[t]he practice or policy of discrimination against individuals ... is a matter of state concern”, and observed that “... discrimination foments domestic strife and unrest, threatens the rights and privileges of the inhabitants of the state, and undermines the foundations of a free democratic state”. R.I.G.L. § 28-5-2. Through impartial investigation, formal and informal resolution efforts, predetermination conferences and administrative hearings, the Commission seeks to ensure due process for both complainants (charging parties) and respondents, to provide redress for victims of discrimination, and to properly dismiss cases in those instances in which charges of discrimination lack evidentiary support.

The Commission enforces Rhode Island anti-discrimination laws in the areas of employment, housing, public accommodations, credit and delivery of services. The employment and public accommodations statutes prohibit discrimination based on race, color, sex, disability, ancestral origin, religion, sexual orientation, gender identity/expression and age. The housing statute, in addition to prohibiting discrimination on these bases, also prohibits discrimination based on marital status, familial status, status as a victim of domestic abuse, housing status and association with members of a protected class. The credit statute, in addition to prohibiting discrimination on the bases covered by the employment law, also prohibits discrimination based on marital status and familial status. Discrimination in the delivery of services on the basis of disability is prohibited.

The Commission’s major program activities include intake, investigation, conciliation, administrative hearings, enforcement, outreach and education.

The Commission was created and empowered by Title 28, Chapter 5 of the General Laws of Rhode Island (the Fair Employment Practices Act) and has statutory responsibility to enforce the following laws:

- Fair Employment Practices Act (R.I.G.L. § 28-5-1, *et seq.*)
- Fair Housing Practices Act (R.I.G.L. § 34-37-1, *et seq.*)
- Hotels and Public Places Act (R.I.G.L. §11-24-1, *et seq.*)
- Prevention and Suppression of Contagious Diseases—HIV/AIDS Act (R.I.G.L. §§ 23-6.3-11 and 23-6.3-12)
- Civil Rights of People with Disabilities Act (R.I.G.L. § 42-87-1, *et seq.*)
- Equal Rights of Blind and Deaf Persons to Public Facilities Act (R.I.G.L. § 40-9.1-1, *et seq.*)

The Commission is overseen by seven Commissioners who are appointed by the Governor with the advice and consent of the Senate. The Commissioners are not compensated for the services they render to the agency.

In addition to enforcing state laws, the Commission has contractual agreements with the Equal Employment Opportunity Commission (EEOC) and U.S. Department of Housing and Urban Development (HUD) to assist in the enforcement of the following federal laws: Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act; and Title VIII of the Federal Fair Housing Law.

Given the agency’s limited resources, keeping the Commission robust and effective has been a task shared by the entire staff, Commissioners, interns and volunteers.

PROTECTED CATEGORIES UNDER STATE AND FEDERAL LAW

	Employment		Housing		Public Accommodations	Credit
	State	Federal	State	Federal	State	State
Race	√	√	√	√	√	√
Color	√	√	√	√	√	√
Religion	√	√	√	√	√	√
Ancestral Origin	√	√	√	√	√	√
Sex[1]	√	√	√	√	√	√
Disability[2]	√	√	√	√	√	√
Age[3]	√	√	√		√	√
Sexual Orientation[4]	√		√		√	√
Gender Identity or Expression[5]	√		√		√	√
Familial Status			√	√		√
Marital Status			√			√
Status as a Victim of Domestic Abuse			√			
Housing Status[6]			√			

1 Includes sexual harassment and discrimination on the basis of pregnancy status.

2 Includes physical and mental disabilities.

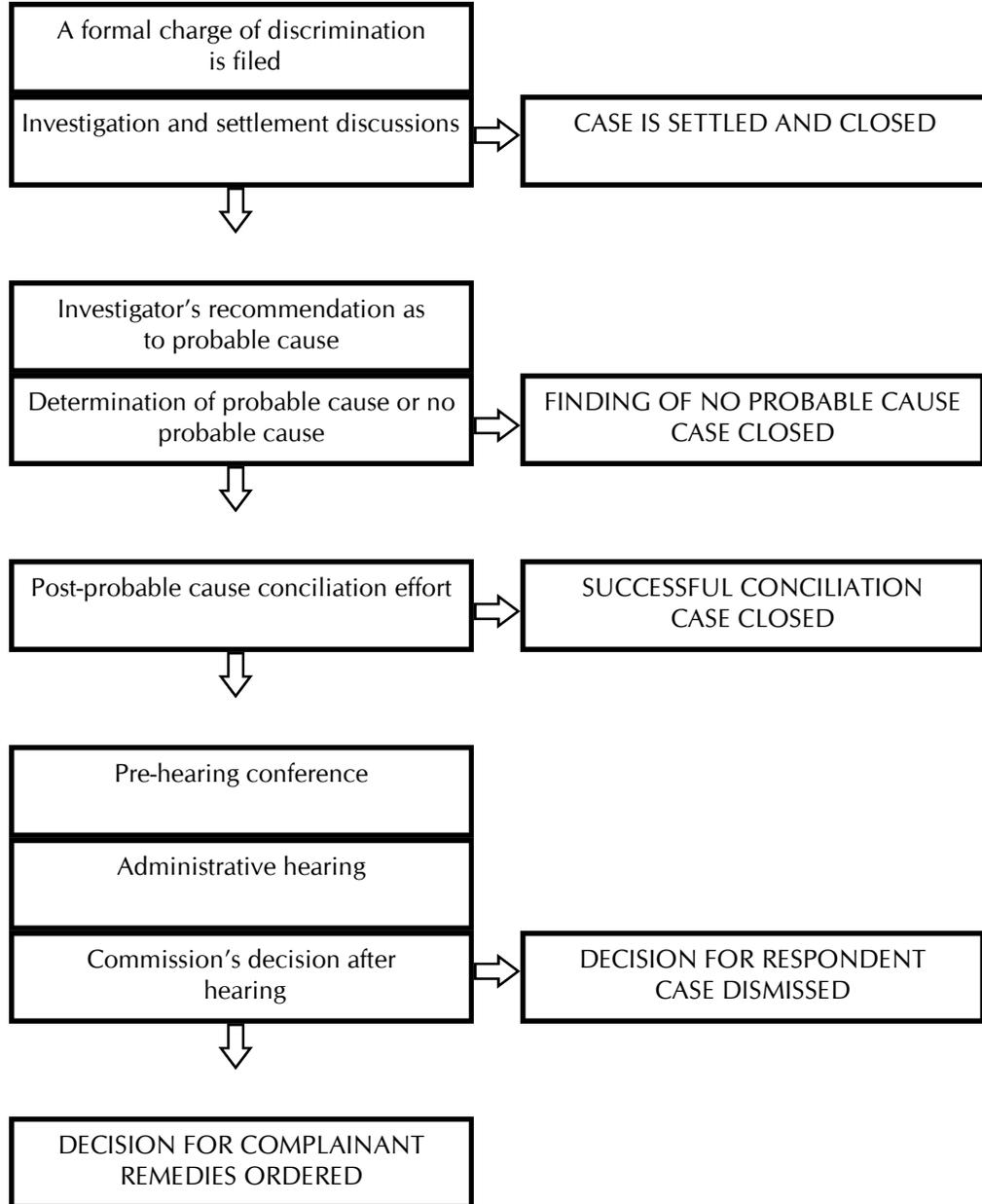
3 Protects individuals 40+ years of age in Employment; protects individuals 18+ years of age in Housing, Public Accommodations and Credit.

4 Protects individuals who are heterosexual, homosexual or bisexual.

5 Includes an individual's actual or perceived gender, as well as an individual's gender identity, gender-related self-image, gender-related appearance, or gender-related expression, whether or not that gender identity, gender-related self-image, appearance or expression is different from that traditionally associated with that individual's sex at birth.

6 "Housing Status" means the status of having or not having a fixed or regular residence, including the status of living on the streets or in a homeless shelter or similar temporary residence.

CHARGE PROCESS SUMMARY



NOTE: Rhode Island law expressly provides that, under certain circumstances, complainants and/or respondents may elect to terminate proceedings before the Commission and have the case heard in Superior Court.

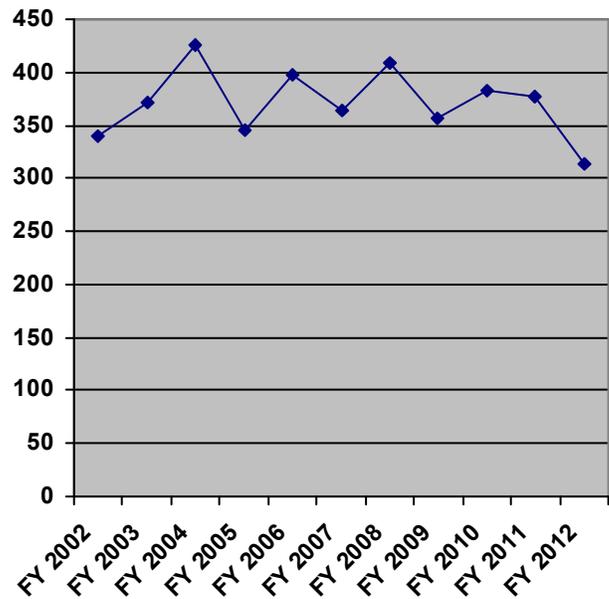
Intake

Inquiries are received and evaluated. If jurisdictional requirements are met, a formal charge of discrimination is filed and forwarded to the respondent.

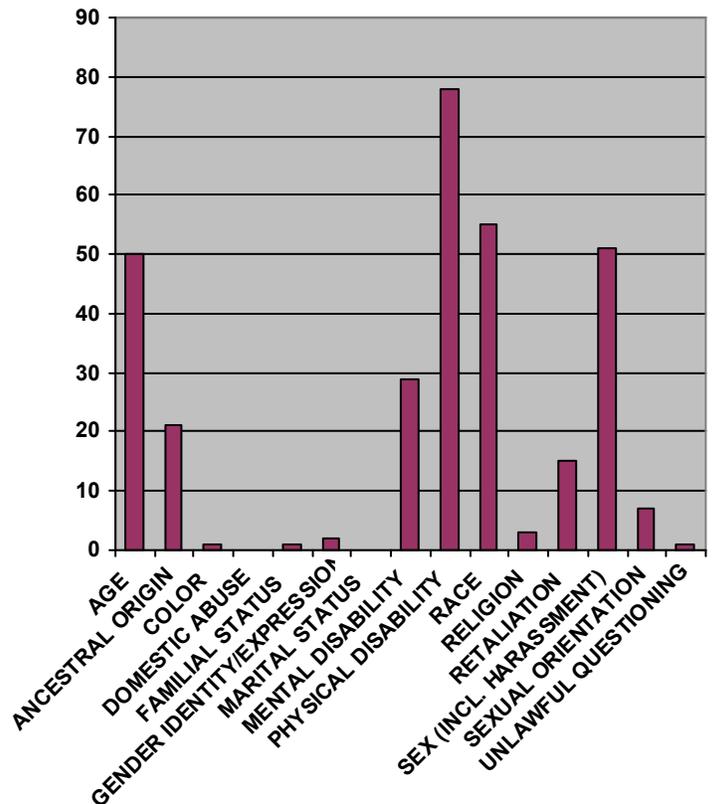
The intake process usually begins with a telephone call or visit to the Commission. Each year the agency receives thousands of telephone and walk-in inquiries from individuals requesting information or wanting to pursue a charge of discrimination. The majority of these inquiries do not come within the jurisdiction of the Commission and these are referred to other agencies or organizations. In those cases in which the inquiry presents a claim within the Commission's jurisdiction, an intake officer assists the individual in filing a formal charge of discrimination.

The Commission took in a total of 314 cases in the fiscal year, representing a 17% decrease from FY 2011 (378). As in past years, disability-related claims predominated in this year's intake, with a total of 107 new cases (29 based on mental disability and 78 based on physical disability), accounting for about 34% of the annual intake. Race claims followed in number, with a total of 55 new cases, or 17.5%, with sex-based claims (including pregnancy and sexual harassment claims) and age claims following at 51 and 50 (16%), respectively.

INTAKE BY FISCAL YEAR



FY 12 INTAKE BY BASIS



INTAKE FY 2012 BY BASIS AND TYPE

	Employment	Housing	Public Accom.	Ind. with Disab.*	Credit	Totals
Age	50	0	0	NA	0	50
Ancestral Origin	16	4	1	NA	0	21
Color (only)	1	0	0	NA	0	1
Familial Status	NA	1	NA	NA	0	1
Gender Identity or Expression	2	0	0	NA	0	2
Housing Status	NA	0	NA	NA	NA	0
Marital Status	NA	0	NA	NA	0	0
Mental Disability	17	10	1	1	0	29
Physical Disability	65	11	0	2	0	78
Race	37	7	11	NA	0	55
Religion	1	0	2	NA	0	3
Retaliation	10	5	0	NA	0	15
Sex**	25	0	0	NA	0	25
Sexual Harassment	26	0	0	NA	0	26
Sexual Orientation	5	2	0	NA	0	7
Status as Victim of Do- mestic Abuse	NA	0	NA	NA	0	0
Unlawful Questioning	1	0	0	0	0	1
Total	256	40	15	3	0	314

*Figures in this column reflect charges filed solely under the Civil Rights of People with Disabilities Act.

**Other than sexual harassment

Investigations

Upon assignment, an investigator conducts an impartial investigation of the allegations and, after analyzing all elements of the case, makes a recommendation to a Preliminary Investigating Commissioner.

After the intake phase is completed and a formal charge of discrimination is filed, each case is assigned to an investigator. The average time from the filing of a charge to assignment to an investigator was six weeks or less. Most of the Commission's personnel resources are devoted to the investigation process. **Nearly 25% of case closures in FY 2012 resulted from settlements or conciliations, representing a significant increase from FY 2011 (18.2%).**

For those cases which do not settle, investigators use a variety of techniques to investigate the case. Often the investigators hold Predetermination Conferences where both complainants and respondents can present evidence to support or refute the allegations. The conferences are held before a Preliminary Investigating Commissioner. A case may involve the collection and analysis of comparative, statistical and/or direct evidence. Investigators may need to travel on-site to collect information and testimony pertinent to the charge. Not all investigations are alike. The individual characteristics of each case will influence an investigator's approach. **In furtherance of the investigative process, the**

Commission issued multiple subpoenas in the fiscal year to compel the production of documents and witness testimony.

In FY 2012, a determination of "Probable Cause" was rendered in approximately 8.3% of cases, reflecting a decrease from FY 2011 (10.7%) While the percentage of Probable Cause cases may seem low, it should be noted that many potential Probable Cause cases settle prior to a formal determination as to Cause and some cases in which the complainant requests a right to sue may be Probable Cause cases. **A "No Probable Cause" determination was rendered in approximately 39.9% of cases, reflecting a decrease from FY 2011 (42.7%).** A significant number of these No Cause findings resulted from the complainant's failure to pursue her/his charge by responding to requests for information.

For the fourteenth consecutive year, the Commission processed more cases than it took in (411 vs. 314), resulting in a continued decrease in the number of cases carried forward to the next fiscal year. "Processed" cases include cases in which a determination of Probable Cause is rendered. Although such cases are not yet closed, they are included in the list of case dispositions to provide an accurate view of the Commission's work.

Case Dispositions

TERMS AND DEFINITIONS

Administrative Closures	Includes cases closed for failure to locate/cooperate, no jurisdiction, charges withdrawn without benefits, receiverships, bankruptcies, and rights to sue issued when a respondent elects to have the case heard in Superior Court following a finding of probable cause.
Conciliation	Case settled after a finding of probable cause.
Decision and Order	Commission makes a finding after a hearing before the Commissioners. If the decision is for the complainant, remedies are ordered. If it is for the respondent, the case is dismissed.
Failure to Locate/ Cooperate	Case administratively closed because complainant could not be found or would not cooperate with the Commission.
Negotiated Settlement	Case formally settled prior to a finding.
No Jurisdiction	Case closed because the Commission has no jurisdiction over the matter.
No Probable Cause	Insufficient evidence exists to support the probability that the complainant was a victim of discrimination.
Probable Cause	Sufficient evidence exists to support the probability that the complainant was a victim of discrimination.
Right to Sue	Complainant is issued a Notice enabling her/him to take the case to court, and the Commission closes the case internally.
Withdrawal	Complainant decides not to pursue the case.
Withdrawal with Benefits	Complainant withdraws the case upon receiving a settlement from the respondent.

Status of Probable Cause Cases FY 2012

Probable Cause cases	33
Respondent's Election to Superior Court	18
Complainant's Election to Superior Court	1
Joint Elections	0
Conciliation	3
Open as of 6/30/12 [pending administrative hearing or other closure at the Commission]	11

Case Dispositions FY 2012

Type of Disposition	Number
Decision and Order	2
Probable Cause	33
No Probable Cause	164
Conciliation*	8
Negotiated Settlement	11
Withdrawal with Settlement	83
Right to Sue	63
Administrative Closure	47
Total	411

*Includes conciliation of cases in which probable cause was found in a prior fiscal year.

Administrative Hearings

After a “probable cause” ruling, a Commissioner conducts an administrative hearing during which sworn testimony is taken before a stenographer. A Decision and Order is rendered thereafter.

The administrative hearing process begins after the Preliminary Investigating Commissioner finds probable cause and the parties are unable to conciliate. (The parties have the statutory right, after a finding of probable cause, to elect to have the matter heard and decided in the Superior Court; in cases in which no such election is made, the agency’s administrative hearing process commences.) One Commissioner conducts the hearing with the assistance of Legal Counsel. At the hearing, which is less formal than a court trial, witnesses present sworn testimony and relevant exhibits are accepted. A stenographer makes a record of the entire proceeding. After the parties present all their evidence, three Commissioners decide the case and issue an order.

A typical hearing lasts from one to three days. For all parties involved, including the Commission, the administrative hearing can be a costly and time-consuming activity. Despite receiving no reimbursement for services rendered, Commissioners consistently held hearings.

Commission Hearings and Closures FY 2012

Cases in which Hearings were Held	6
Number of Hearing Days	9
Closures of Cases in Hearings	
Total Decision and Orders	2
Mixed Decisions	2
Written decisions on motions (These include motions to dismiss, discovery motions and motions on damages and attorney’s fees.)	7

The following are summaries of the Decision and Orders issued by the Commission in FY 2012:

Luisa S. Oliveira v. Furniture Mattress Warehouse, Inc., Mukesh Tandon, Carlos Montt, Jorge Montt, Erwin Vasquez and Rene Garcia (December 28, 2011)

The Complainant alleged that the Respondents discriminated against her with respect to terms and conditions of employment because of her sex. After hearings, the Commission found that the Complainant proved that Furniture Mattress Warehouse, Inc. committed an unlawful employment practice by discriminating against her with respect to sexual harassment, that Carlos Montt aided and abetted unlawful employment practices and that Jorge Montt, Erwin Vasquez and Rene Garcia incited unlawful employment practices and attempted directly and indirectly to commit unlawful employment practices. The Commission found that the Complainant did not prove that Mukesh Tandon committed an unlawful employment practice.

The Complainant was a Sales Representative at Furniture Mattress Warehouse, Inc. starting in 2002. The Commission found that co-workers, Respondents Jorge Montt, Erwin Vasquez and Rene Garcia, subjected the Complainant to pervasive sexual harassment which included sexual remarks and sexual touchings. The Complainant and her sister complained about the harassment to the manager of the store where the Complainant worked. The Complainant's sister reported the harassment to Respondent Carlos Montt, a manager who appeared to have supervisory authority. Carlos Montt told the Complainant's sister not to worry, that he was going to do something, indicating that he would take action against the harassing co-workers. The Complainant also reported the conduct of her co-workers to Respondent Carlos Montt who told her he would do something about it, but nothing was done. Furniture Mattress Warehouse, Inc. had no sexual harassment policy and did not inform employees to whom they should report harassment.

The Commission found that the Complainant did not prove that Respondent Mukesh Tandon, the owner of Furniture Mattress Warehouse, Inc., had knowledge of the harassment before a meeting at which the harassment was reported to him. After that meeting, the harassment of the Complainant stopped. The Commission found that the Complainant did not prove that Respondent Mukesh Tandon discriminated against her by his actions or his lack of action and dismissed the case against him.

The Commission ordered that the remaining Respondents pay the Com-

plainant her lost salary and commissions for the interval when she was on sick leave due to Post-Traumatic Stress Disorder (PTSD), caused, according to her counselor, by the incidents at work. They were also ordered to pay the Complainant the amounts charged for medical treatment and counseling for PTSD and stress reaction, \$12,000 in compensatory damages for pain and suffering and 12% interest on the amounts awarded. Attorney's fees awarded to the Complainant were determined at a later date.

The Commission also ordered Furniture Mattress Warehouse, Inc. to establish a sexual harassment policy, to train its supervisors and to post the Commission anti-discrimination poster in the workplace. The Commission ordered Respondents Jorge Montt, Carlos Montt, Rene Garcia and Erwin Vasquez to receive training on anti-discrimination laws.

Commissioner Nancy Kolman Ventrone concurred in part and dissented in part. She dissented from the finding that Carlos Montt aided and abetted unlawful employment practices. She also dissented from the amount of compensatory damages awarded, finding that the Complainant had not given sufficient proof of pain and suffering to warrant the amount of compensatory damages awarded.

Salvador I. Pellerano, Ivonne Martinez, Ivonne Torres and Adalberto Torres v. Oleg E. Kuznetsov (May 24, 2012)

The Complainants alleged that the Respondent discriminated against them with respect to harassment and intimi-

dation in housing because of their ancestral origin. The Commission found that all of the Complainants, except Adalberto Torres, proved that the Respondent discriminated against them with respect to coercion, intimidation, threats and interference with their right to enjoy and utilize a housing accommodation. The Commission also found that the Respondent discriminated against Complainants Pellerano and Martinez with respect to their right to own a housing accommodation.

The Complainants Pellerano and Martinez, who are of Puerto Rican ancestral origin, owned a condominium on Veazie Street in Providence, Rhode Island. Complainants Ivonne Torres and Adalberto Torres, who also are of Puerto Rican ancestral origin, lived with them at times. The Respondent owned an adjacent condominium. The Commission found that the Respondent's harassment of Complainants Pellerano, Martinez and Ivonne Torres was severe and pervasive and created intolerable living conditions, causing them to leave their condominium. The Respondent subjected Complainants Pellerano, Martinez and Ivonne Torres to threats of harm (by shining laser lights on the chest and head of Complainant Ivonne Torres and on Complainant Pellerano, terrifying him as he did not know whether the lights came from a toy or a gun); to threats of loss of liberty (by making a false police report against Complainant Pellerano); to invasion of privacy (by taking pictures of Complainant Martinez while she was in the privacy of her home and by showing to others a picture he took of her in an embarrassing posture); to attempts at interference with employment (by sending a false and defama-

tory statement about Complainant Pellerano to his supervisor); and to general interference with the peaceful enjoyment of their housing (by photographing license plates of visitors, burying Complainant Martinez' car with snow, blowing trash onto their property and sounding his house alarm when Complainant Martinez was outside of her house). The Commission found that the Respondent's disparaging comments and frequent references to their ancestral origin demonstrated that their ancestral origin was a motivating factor in his harassment of Complainants Pellerano, Martinez and Ivonne Torres.

The Commission found that Complainant Adalberto Torres, who did not testify at the administrative hearing, did not prove discrimination.

The Commission ordered the Respondent to pay Complainant Pellerano \$24,626 in compensatory damages, to pay Complainant Martinez \$17,326 in compensatory damages and to pay Complainant Ivonne Torres \$5,080 in compensatory damages. The Commission ordered the Respondent to pay 12% interest on the damages awarded.

The Commission further ordered that the Respondent cease sending faxes to Complainant Pellerano at his work telephone number, that the Respondent receive training on fair housing laws and that he pay the State of Rhode Island Treasury \$3,000 as a civil penalty.

Commissioner Alberto Aponte Cardona joined the opinion in part and dissented in part. He dissented from the finding that Complainant Adalberto Torres did not prove discrimination. He also dis-

sented from the amount of the civil penalty, finding that the Respondent's conduct justified a civil penalty of \$10,000.

The Commission at the Courts

The Commission continues to take steps to enforce agency Decisions and Orders and to pursue litigation in court where statutorily authorized to do so. The following are highlights from Fiscal Year 2012:

Receiverships and Bankruptcies

Both state court Receiverships and federal court Chapter 11 Bankruptcies are judicial procedures the goal of which is to protect financially troubled businesses by providing orderly distributions to their business creditors through liquidation. To ensure that the process of liquidation is orderly, the federal Bankruptcy Code provides that upon the filing of the bankruptcy petition, an "automatic stay" arises against the initiation or continuation of any legal or administrative process against the business, unless permission from the court has been obtained. State law does not provide such an "automatic stay" upon the filing of a petition for receivership, but the Court Order appointing a Receiver to oversee the liquidation process generally contains such a stay.

The Bankruptcy Code contains exceptions to the automatic stay, one of which is for agencies that are exercis-

ing the state's "police power". This exception covers the Commission, so there is no legal obligation on the Commission to stop its investigation of a charge when a respondent files for bankruptcy. There is no similar "police power exception" in state Receivership matters. Starting five years ago, the Commission initiated a new policy by which it would petition the Superior Court to lift the stay in receivership cases so that it could continue its investigation. The Court has routinely granted such petitions, thereby allowing the Commission to continue its investigations of charges against respondent businesses that are in receivership. This past year the Commission was able to obtain this relief in four cases.

Manfredi v. North Providence Public Housing Authority, et al.

Joseph Manfredi, a Section 8 rental assistance recipient, lived with his son in public housing managed by the North Providence Public Housing Authority (NPPHA). Under the federal guidelines for Section 8 voucher recipients, rental assistance decreases as the total income of the household increases. Mr. Manfredi's son lived with his father as his live-in aide, just as he previously had done for his grandmother. As a qualified live-in aide, Mr. Manfredi's son's income was not used in computing rental assistance. Mr. Manfredi claimed that his son's presence in his dwelling as a live-in aide was essential to his care and well-being, and to providing him with an equal opportunity to use and enjoy his dwelling.

In late 2009, the NPPHA, through its Director, concluded that since Mr.

Manfredi's son worked full-time, it was impossible for him to qualify as a live-in aide for his father. As a person with disabilities, Mr. Manfredi requested a reasonable accommodation to the rental assistance guidelines to allow his son to qualify as a live-in aide which would permit his son to live with him without considering his son's income in the determination of rent. The Director threatened Mr. Manfredi with eviction if he did not have his son vacate the premises.

Prior to being evicted, Mr. Manfredi requested a hearing on the denial of his reasonable accommodation request to have his son serve as his live-in aide. At the hearing, Mr. Manfredi was told by the hearing officer that additional medical information was required to prove his disability. Mr. Manfredi then requested additional time within which to obtain the requested information, but his request for additional time was denied. The hearing officer then held that Mr. Manfredi's son was not qualified to be the live-in aide for his father.

On March 1, 2010, Manfredi filed a charge with the Commission against the NPPHA and the Director alleging that they had discriminated against him by denying his request (necessitated by his mental and physical disabilities) for a reasonable accommodation to their rules regarding additional tenants, to permit his son to act as his live-in aide.

During the course of the Commission investigation, the respondents filed a Motion to Dismiss the charge on the grounds that the NPPHA and its Director had qualified immunity from suit. The motion was denied. The Commis-

sion then ruled that there was probable cause to believe that the respondents had discriminated against Mr. Manfredi as alleged in the charge. The respondents filed a Motion for Reconsideration of the finding of probable cause to which the Civil Prosecutor objected, claiming that the Commission Rules and Regulations do not provide for reconsideration of findings of probable cause. The Commission reconsidered the finding of probable cause, upheld the finding of probable cause and both the respondents and Civil Prosecutor appealed to the Superior Court.

While the appeals were pending, the respondents elected to have the charge heard in court, rather than before the Commission. The Civil Prosecutor, on behalf of Mr. Manfredi, and in conjunction with Mr. Manfredi's private counsel, filed a second suit in the RI Superior Court alleging that the respondents' denial of Mr. Manfredi's reasonable request for an accommodation violated state and federal anti-discrimination laws.

Prior to the two pending suits being joined, the respondents removed the second case to federal court. The parties participated in the federal court mediation program and settled the case for \$45,000.00.

Fair Housing Overview

HOUSING CASELOAD

The population of Rhode Island in 2010 was 1,069,725. Under guidelines established by HUD, a state having a population of up to 1,500,000 residents should, on average, receive and process up to 15 fair housing complaints per year. **The Commission received 40 complaints and processed 48 complaints in FY 2012, which is equivalent to HUD's estimated average workload of a state having a population of over 4,500,000 residents.**

INTAKE AND DISPOSITIONS TEN-YEAR VIEW

FY	INTAKE	PROCESSED
2012	40	48
2011	53	54
2010	47	40
2009	63	71
2008	59	43
2007	43	45
2006	50	47
2005	32	33
2004	47	44
2003	25	36

DISPOSITION OF FAIR HOUSING COMPLAINTS

The Commission processed 48 housing complaints in FY 2012. Three cases (6.3%) resulted in a finding of Probable Cause, while 20 cases (41.7%) resulted in a No Cause finding. A settlement was achieved in 20 additional cases (41.7%), including three cases in which the Commission had found Probable Cause during the prior fiscal year and which had been prosecuting in Superior Court. Three cases (6.3%%) were withdrawn by the complainant. In addition, one case (2.1%) was determined to be non-jurisdictional and one case (2.1%) was closed when complainant requested a right to sue in Superior Court.

Settlements: From the time a charge is filed and the investigation commences, the Commission seeks to amicably resolve all pending matters. The goal of settling complaints continues even if a case is filed in Superior Court. As noted above, 17 cases were successfully settled during the investigative phase. Resolutions of these cases included respondents' agreement to: provide monetary settlements; discontinue eviction proceedings; approve transfer requests; expunge notices of noncompliance; grant reasonable accommodations for tenants with disabilities; and reimburse former tenants for moving expenses.

In a noteworthy case, complainants had alleged that respondent mobile home park and owner refused to permit entrance to the mobile home park of a special needs bus which transported a mentally and physically dis-

abled child to and from school. The matter was settled with the respondents agreeing to grant the bus access to the mobile home park. In another noteworthy case, complainant had alleged that respondent mobile home park and owner refused to rent him a lot on which stood the mobile home he had purchased because of his race and color (Black). Respondents had cited a low credit score and a criminal conviction as reasons for the denial, evidence gathered during investigation suggested that white mobile home park residents had been allowed to rent lots despite similarly low credit scores and criminal records. The matter settled with the respondents agreeing to rent the lot in question to the complainant.

Post-Probable Cause Resolutions: In addition to the dispositions noted above, the Commission successfully settled three cases during the fiscal year following a finding of probable cause. One of those cases (*Manfredi v. North Providence Public Housing Authority et al.*) is highlighted under “The Commission at the Courts”, at page 12 of this Report.

In another noteworthy case settled following a finding of probable cause, complainant had alleged that respondent housing complex denied her request for a reasonable accommodation. Specifically, she alleged that she suffers from severe arthritis, rendering access to the building difficult due to the presence of old and heavy entrance doors, and that the respondent refused her request to install an automatic door at the main entrance to the complex. Following a Commission determination of probable cause, the respondents agreed to install automatic

doors both at the entrance to complainant’s building as well as to the entrances of its two other buildings in the complex.

Pellerano, et al. v. Kuznetsov

This matter was the first case in which the Civil Prosecutor presented a case before the Commission at an administrative hearing, as required by the Commission’s Memorandum of Understanding with the U.S. Department of Housing and Urban Development. The particulars of the case, which resulted in the Commission finding discrimination and ordering remedies, are presented under “Decision and Orders” at page 10 of this Report.

RHODE ISLAND FIRST IN NATION TO PROTECT HOMELESS

On June 22, 2012, Governor Lincoln Chafee signed into law a “Homeless Bill of Rights” bill, the first of its kind in the country. Among the bill’s provisions was an amendment to the state’s Fair Housing Practices Act which prohibits discrimination in housing on the basis of “housing status”. “Housing status” is defined as “the status of having or not having a fixed or regular residence, including the status of living on the streets or in a homeless shelter or similar temporary residence”.

Caseload Statistics

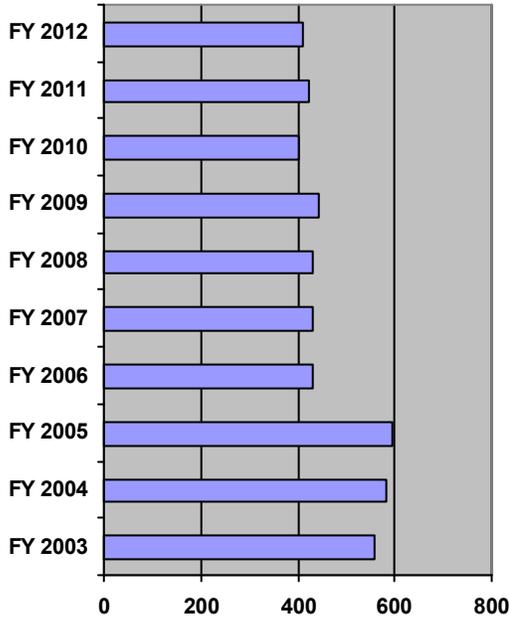
CASE PROCESSING

For the fourteenth consecutive year, the Commission was able to process more cases than it took in (411 vs. 314). **The agency processed approximately 2.6% fewer cases in FY 2012 than it did in FY 2011 (411 vs. 422).**

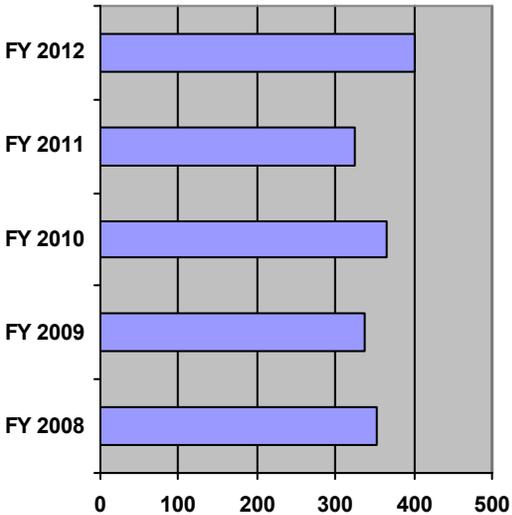
CASE PROCESSING TIME

In recent years, the Commission has labored to ensure more expeditious processing of cases. The “hands on” role Director Evora has taken in overseeing caseload management, concerted staff efforts and the use of the Commission’s subpoena power to expedite stalled investigations are among the tools used to achieve success in this area. The average age of cases closed in FY 2003 exceeded three years. By FY 2006, that time had been decreased to 423 days. **For FY 2012, the average age of a case at closure was 400 days.**

CASES PROCESSED BY FISCAL YEAR



AVERAGE CASE AGE (DAYS) AT CLOSURE BY FISCAL YEAR



AGED CASE REDUCTION

FY 2012 saw a continuing reduction in the number of cases considered “aged” under federal Equal Employment Opportunity Commission guidelines. Thanks to the diligent efforts of Commissioners, staff and interns, **the Commission closed FY 2012 with no aged cases in its caseload, a milestone in the agency’s history.**

Outreach

DATE	TOPIC	LOCATION/GROUP
8/2/11	Distribution of Commission Literature	“National Night Out”, Oakland Beach
9/7/11	Commission Overview; ADA issues	Dunkin Donuts, Broad St., Providence
9/14/11	Commission Information/Intern Recruitment	Community Service Opportunities Fair, Brown University
9/21/11	Fair Housing	Warm Center Shelter, Westerly...
9/22/11	Commission Overview, “The Top Ten Things to Think About When Representing LGBT Clients”	RI Bar Association, LGBT and the Law Committee, Providence
11/3/11	Fair Housing Act/ Reasonable Accommodations for Assistive Animals	RI Bar Association, Providence
11/9/11	Fair Housing Act/ Reasonable Accommodations for Assistive Animals	RI Bar Association, Middletown
11/9/11	Rhode Island for Community and Justice Community Service Awards Event	Convention Center, Providence
11/20/11	Commission Overview/ Recruitment	Job/Internship Fair (High school and college students), URI, North Kingston
11/29/11	Commission Overview/ Employment Discrimination, Part 1	YearUp, Providence
12/1/11	Commission Overview/ Employment Discrimination, Part 2	YearUp, Providence
1/25/12	Fair Housing	RI Minority Elderly Task Force, East Providence, RI
2/17/12	Fair Housing	Central Falls Housing Authority (Staff), Central Falls, RI
2/24/12	Fair Housing/ Commission Overview	Article in <i>Providence En Español</i> newspaper based on interview of Angie Lovegrove
3/7/12	Commission Overview/Intake	Article in <i>Providence En Español</i> newspaper based on interview of Marlene Colón Toribio
3/16/12	Employment Discrimination	Roger Williams Univ. School of Law, class on Employment Law
4/11/12	General Overview/Sexual Harassment	Social Work and the Law class, RI College
5/8/12	General Overview/Sexual Harassment	Ocean State CPL, East Providence, RI
5/14/12	General Overview/Sexual Harassment	Ocean State CPL, East Providence, RI
5/22/12	General Overview/Sexual Harassment	Ocean State CPL, East Providence, RI
6/5/12	Commission Overview/ Employment Discrimination, Part 1	YearUp, Providence
6/5/12	General Overview/Sexual Harassment	Ocean State CPL, East Providence, RI
6/7/12	Commission Overview/ Employment Discrimination, Part 2	YearUp, Providence
6/11/12	Employment Discrimination	General Dynamics, North Kingstown, RI

Federal Agreements

U.S. Equal Employment Opportunity Commission

The Commission has been certified by the U.S. Equal Employment Opportunity Commission (EEOC) as a Fair Employment Practices Agency since 1968. Consistent with Section 706 of the Civil Rights Act of 1964, the Commission is authorized to process charges of employment discrimination which fall under federal as well as state jurisdiction (co-filed). Each year, the Commission enters into a work-sharing agreement with EEOC under which the Commission is expected to investigate a predetermined number of cases. EEOC reimburses the Commission at a fixed rate for each case closed in compliance with the guidelines spelled out in the agreement. **This year, the Commission met its contractual obligation by closing 235 co-filed cases.**

U.S. Department of Housing and Urban Development

The Commission continued its relationship with the U.S. Department of Housing and Urban Development (HUD) as defined under the federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968. The Commission enters into an annual contract with HUD for fixed-rate reimbursement for the processing of housing cases filed under both state and federal law. **The Commission took in 40 charges of alleged housing discrimination, 37 of which were co-filed with HUD, and processed 48 charges, 46 of which were co-filed with HUD.**

FEDERAL FUNDS RECEIVED, FY 2012

EEOC*	Case Processing	\$152,750
	Training/ Transportation	\$1,400
HUD*	Case Processing	\$104,000
	Administrative Costs	\$20,000
	Training	\$20,000
TOTAL		\$298,150

*EEOC's fiscal contract year was October 1, 2011 to September 30, 2012. HUD's contract year was July 1, 2011 to June 30, 2012.

Affirmative Action

The Commission's commitment to affirmative action remains constant. In addition to promoting its internal affirmative action plan, the Commission routinely engages in endeavors geared to enrich and diversify the Rhode Island community. Staff members are available to participate in seminars and conferences that address affirmative action as it relates to the Commission's work.

COMMISSION WORKFORCE PROFILE

Category	Employees	Percent
Total Employees	14	100
Women	9	64
Racial/Ethnic Minorities	7	50

Interns

Each year, high school, college, graduate students and recent graduates receive first-hand experience in the Commission's primary functions through the intern program.

Interns assist in investigations, conduct legal research, perform clerical duties and work independently through a structured program. For their work, interns may earn college credits, stipends through work-study grants, and/or receive compensation from the state Government Internship Program.

FALL 2011	
Amanda Dolan	University of Rhode Island
Quincy Gilbert	Community College of Rhode Island
Madeline Kirsch	Union College
Amelia Kohli	Roger Williams University School of Law
Marlicha Noguiera	Tolman High School
Jennifer Recinos	Brandeis University
Adam Staropoli	Providence College

SPRING 2012	
Emily Ackerman	Johnson & Wales University
Cristina Bailey	Rhode Island College
Daphne Coriolan	Rhode Island College
Quincy Gilbert	Community College of Rhode Island
Kerianne Kane	University of Rhode Island
Pamela Lunderville	Community College of Rhode Island
Daniel Majewski	Roger Williams University School of Law
Megan McLaughlin	Community College of Rhode Island
Marlicha Noguiera	Tolman High School
Peter Sarian	Providence College
Bradley Silverman	Brown University
Adam Staropoli	Providence College
Alyssa Stine	Roger Williams University School of Law
Caitlin Trujilo	Brown University
SUMMER 2012	
Ashley Cain	Notre Dame Law School
Kate Chesney	Roger Williams University School of Law
Kaitlyn Cox	Roger Williams University School of Law
Johann Donall	Roger Williams University School of Law
Meghan Embry	Roger Williams University School of Law
Jennifer Fournier	Roger Williams University School of Law
Samantha Gervasio	Iona College
Madeline Kirsch	Union College
Frank Pisaturo	Rider University
Jennifer Recinos	Brandeis University
Ivy Shen	Dartmouth College
Laura Souza	Suffolk Law School
Lisa Vickers	University of CT

Recognitions



In September 2011, Dina I. Quezada was hired as a Commission Investigator (replacing Susan Pracht, who resigned from state service in February 2011). The Commission's Search Committee selected Ms. Quezada from a field of 110 applicants. Originally from Brazil, she earned an M.A. in Brazil in Anthropology and Sociology before coming to the United States. At the time of her hire, she was working toward an M.A. in International Relations at Salve Regina University (which she has since earned). Among her noted accomplishments, she engaged in extensive volunteer efforts in Brazil to eradicate educational disparities for the poor and worked with young adults in impoverished areas to help them develop the skills and resources necessary to allow them to attend university. She also worked on promoting the basic human rights of Brazilian street vendors as part of her Master's thesis. In her words, she has sought to "give voice to the outcasts". Ms. Quezada is fluent in English, Portuguese and Spanish.



Commissioner Camille Vella-Wilkinson was nominated to serve on the Board of Directors of the RI Black Business Association. She also received a fellowship from the Women's Fund of the RI Women's Policy Institute to work on women's issues in government. Her work as a fellowship recipient included drafting proposed legislation to be submitted to the RI General Assembly which would secure the right to unpaid leave for caregivers. The Commissioner organized an event in Warwick for

Women's History Month which focused on the needs of elderly women. She was selected to serve as the Veterans' Liaison for the City of Warwick and on the Advisory Board of the newly-formed Rhode Island Military Organization. She received the *Commanders' Award for Outreach* from the Disabled American Veterans Association.



Commissioner Rochelle Bates Lee co-founded the RI Black Business Association and serves on its Board of Directors.



Commissioner Nancy Kolman Ventrone continues to serve as Co-President of the Jamestown Shores Association and occasionally volunteers with the American Red Cross in Jamestown, RI.



Commissioner Alberto Aponte Cardona received the *Cesar Chavez Community Service Award* from the Mexican-American Association of RI.



On November 9, 2011, Executive Director Michael D. Évora received Rhode Island for Community and Justice's *Community & Justice Award* at a special ceremony at the Rhode Island Convention Center. The award honored Director Évora's "work advocating for civil rights, including fair employment, fair housing and equal access, his eloquent voice in support of minority and underserved Rhode Islanders, and his unique talent as a consensus builder, bringing differing groups together to seek common ground".